

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID JOHN WIDMARK,
Plaintiff,
v.
A. GOMEZ and M. MURO,
Defendants.

Case No. 1:22-cv-00292-HBK (PC)

ORDER FINDING DEFENDANTS'
MOTION TO COMPEL DISCOVERY
MOOT

(Doc. No. 26)

Pending before the Court is Defendants' Motion to Compel Discovery filed January 26, 2024. (Doc. No. 26). Defendants timely propounded written discovery on pro se Plaintiff, which was returned as undeliverable due to Plaintiff's parole from the California Correctional Institution (CCI) on May 22, 2023. (*Id.* at 2). On December 4, 2023, Defendants re-served their written discovery on Plaintiff's parole officer but has still not received any response. (*Id.* at 4).

Notably, on November 30, 2023, the Court previously granted Defendants' motion to extend the discovery deadline due to Plaintiff's failure to respond to Defendant's discovery requests due to his parole and failure to provide an updated address. (Doc. No. 25). In that same Order, the Court directed Plaintiff to promptly file a notice of change of address as require by Local Rule 182(f). (*Id.* at 2, ¶ 5). On December 11, 2023, the Court's November 30, 2023 Order was returned as undeliverable. Under the Court's Local Rules, Plaintiff's change of address was due no later

1 than February 12, 2024, after which time the Court may sua sponte dismiss this action. Local Rule
2 183(b).¹ Thus, it appears Plaintiff has failed to prosecute this action by failing to notify the Court
3 or Defendants of his change of address. Indeed, the Court's February 7, 2024 Order granting
4 Defendant's motion to vacate the discovery and dispositive motions deadlines was similarly
5 returned as undeliverable on February 20, 2024. Consequently, the Court finds Defendants' motion
6 to compel moot as any order compelling Plaintiff to respond to the discovery would appear to be
7 futile as this case is subject to dismissal under Local Rule 183(b).

8 ACCORDINGLY, it is hereby ORDERED:

9 Defendants' Motion to Compel Discovery (Doc. No. 26) is MOOT.

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11 Dated: March 5, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

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25 ¹ In pertinent part, Local Rule 183(b) provides:

26 If mail directed to a plaintiff *in propria persona* by the Clerk is returned by the U.S. Postal
27 Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three
28 (63) days thereafter of a current address, the Court may dismiss the action without prejudice
for failure to prosecute.